Unit – 2.

Income from Capital Gains: Section 45 to 55A

Meaning:

It is the fourth important head of income. According to Section 45 "the profit on transfer of Capital asset is known as Capital gain".

According to Section 2(14), Capital asset refers to any kind of property, movable or immovable used or not used for business held by an assessee and any securities held by a Foreign Institutional Investors which has invested in such securities in accordance with the regulations made under SEBI Act but excluding the following:-

1. Raw-materials, work-in-progress and consumable stores.
2. Personal effects like wearing apparels, motor car, furniture used exclusively for private/personal purpose other than jewellery, archaeological collection, drawings, paintings, sculptures or work of art.
3. Agricultural land in India in the rural areas. (A land which is used for agricultural purposes and located in an area other than areas specified as urban land and population is less than 10,000 is known as rural agricultural land).
4. 6½ % Gold Bonds, 1977, 7% Gold Bonds, 1980, and National Defence Gold Bonds, 1980 and Special Bearer Bonds, 1991 issued by the Central Government.
5. Gold deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetization Scheme, 2015.

Types of Capital Assets:

Capital assets can be classified into a) Short term capital assets b) Long term capital assets.

Short-term capital assets:

According to Section 2 (42A), those assets which are held by an assessee for a period of less than 36 months before the date of transfer are called short term capital assets.

In case of listed shares, listed securities (debentures, bonds, Govt. securities, derivatives etc), units of UTI, Units of equity oriented mutual fund and Zero Coupon Bonds, (referred as financial assets) it is less than 12 months. In case of Unlisted equity or preference shares and Immovable property like land, building or both (referred as special category of assets) it is less than 24 months.

Short- term capital gain:
The profit on transfer of short term capital asset is known as short term capital gain.

Long- term capital assets:
According to Section 2 (42), those assets which are held by an assessee for a period of more than 36 months before the date of transfer are called long term capital assets.
In case of listed shares, listed securities (debentures, bonds, Govt. securities, derivatives etc), units of UTI, Units of an equity oriented mutual fund and Zero Coupon Bonds, (referred as financial assets) it is more than 12 months (if transfer takes place after 10th July 2014). In case of Unlisted equity or preference shares (if transfer takes place on or after 1st April 2016) and in case of Immovable property land, building or both (if transfer takes place on or after 1st April 2017) (referred as special category of assets) it is more than 24 months.
Long-term capital gain:
The profit on transfer of long term capital asset is known as long term capital gain.

Table describing an asset as long term capital asset or short term capital asset:

Name of the Asset	Period of holding	Short- term Asset / Long- term Asset
Immovable Property (Land or Building or Both) **If transfer takes place on or after 1st April 2017 (referred as special category assets).**	Less than 24 months More than 24 months	Short-Term Capital Asset Long-Term Capital Asset
Equity or Preference Shares of Unlisted Company, if transfer takes place on or after 1st April 2016 **(referred as special category assets).**	Less than 24 months More than 24 months	Short-Term Capital Asset Long-Term Capital Asset
Building used for commercial purpose carrying business	Not considered Depreciable asset	Always Short-term capital asset
1. Equity or Preference Shares of listed Company **2. Listed Debentures, Listed Bonds, Listed Govt. Securities and Listed derivatives etc** **3. Units of UTI** **4. Units of equity oriented mutual funds** **5. Zero coupon bonds** (Referred as Financial Assets)	Less than 12 months More than 12 months	Short-Term Capital Asset Long-Term Capital Asset

Any Other Capital Asset (not covered under the above categories) (unlisted securities and units of Debt-oriented Fund and any other assets)	Less than 36 months More than 36 months	Short-Term Capital Asset Long-Term Capital Asset

Transfer:

According to Section 2 (47), Transfer includes sale of an asset, exchange of an asset, relinquishment of an asset, extinguishment of any rights there in or compulsory acquisition of an asset under any law. It must be effected during the previous year.

Transactions not regarded as transfer: Sections- 46&47

Certain transactions have however been kept outside the purview of transfer by a special provisions in the act. Some of such important transactions are-

1) Distribution of capital assets on the total or partial partition of HUF.
2) Transfer of capital assets under a gift or will or an irrevocable trust.
3) Acquisition of property by succession or inheritance.
4) Transfer of agricultural land in India situated in rural area.
5) Distribution of assets in kind by a company to its shareholders on liquidation.
6) Any transfer of a capital asset by a company to its wholly owned Indian subsidiary company or wholly owned subsidiary company to its Indian holding company.
7) Transfer of capital asset (being work of art, manuscript, painting, etc) to government/university/national museum.
8) Transfer by way of conversion of bonds, debentures or deposit-certificates into equity shares.
9) Transfer by way of conversion of preference shares of a company into equity shares of that company.

Chart showing computation of Short Term Capital Gain S - 48

	Rs	Rs
Name of the Asset: Nature of the Asset: Sale proceeds		xxxx
Less: Selling expenses (commission, brokerage etc,)		----
Net sale price / proceeds		xxxx
Less: Cost of acquisition	xxxx	
Less: Cost of additions	xxxx	
Less: Cost of improvements	xxxx	----
Short term capital gain / short term capital loss		xxxx
Less: Exemptions U/S- 54B, 54D, 54G and 54GA	xxxx	----
• No exemption in case of Short term capital loss		
Short Term Capital Gain		XXXX

What is Full value of Consideration? (Sale Proceeds)

Full value of consideration is the consideration received or receivable by the transferor in lieu of assets, which he has transferred. Such consideration may be received in cash or in kind. If it is received in kind, then fair market value of such asset is taken as full value of consideration.

Adequacy of Consideration: - Section 50C

Adequacy or Inadequacy of consideration is not relevant for the purpose of determining full value consideration. However, in the case of transfer of land or building or both (immovable property), if **stamp duty value** is more than 105% of sale consideration, the **stamp duty value** is taken as full value of consideration. Where the **stamp duty value** does not exceed 105% of sale consideration as per agreement, **Sale consideration** as per agreement will be full value of consideration.

If an appeal is made by an assessee expressing the dissatisfaction regarding the stamp duty value fixed by the valuation officer with an Assessing Officer, and if Assessing Officer makes any reference to the Valuation Officer, the sale consideration for transfer of immovable property shall be: -

The value determined by Valuation Officer or the Stamp duty value whichever is less.

Note: In case of difference in **'Stamp duty value'** on the date of agreement and the date of registration, the **'Stamp duty value'** on the date of agreement must be considered.

If Consideration is not determinable: - Section 50D

Consideration for the transfer of a capital asset is not determinable, and then for the purpose of computing capital gains, the fair market value of the asset shall be taken as full value of consideration.

What is Cost of Acquisition?

Cost of acquisition of an asset is the value for which it was acquired by the assessee. Expenses of capital nature for completing or acquiring the title to the property are includible in the cost of acquisition. Interest on money borrowed to purchase asset is part of actual cost of asset. The amount paid for discharge of a mortgage is part of cost of acquisition if it was not created by the transferor.

What is Cost of Addition/Improvement?

Cost of improvement is capital expenditure incurred by an assessee in making any additions / improvements to the capital asset. It also includes any expenditure incurred to protect or complete the title to the capital assets or to cure such title. Any expenditure incurred to increase the value of the capital asset is treated as cost of improvement.

Improvement cost incurred before 1st April 2001:

Cost of improvement incurred before 1st April 2001 is never taken into consideration. This rule does not have any exception.

Chart showing computation of Long Term Capital Gain S - 48

	Rs	Rs
Name of the Asset: Nature of the Asset: Sale proceeds		xxxx
Less: Selling expenses (commission, brokerage etc,)		----
Net sale price / proceeds		xxxx
Less: Indexed Cost of acquisition / FMV on 1-4-2001 weg	xxxx	
Less: Indexed Cost of additions	xxxx	
Less: Indexed Cost of improvements	xxxx	----
Long term capital gain / long term capital loss		xxxx
Less: Exemptions U/S- 54, 54B, 54D, 54EC, 54EE, 54F, 54G, 54GA and 54GB	xxxx	----
• No exemption in case of Long term capital loss		
Long Term Capital Gain		XXXX

Indexed cost:

Indexed cost refers to Cost of Inflation Index. It is calculated on the basis of Inflation table released by the Central Government every year. The following is the table.

Chart showing the Cost of Inflation Index:

Sl. No.	Financial Year	C I I	Sl. No.	Financial Year	C I I
1.	2001-02	100	11.	2011-12	184
2.	2002-03	105	12.	2012-13	200
3.	2003-04	109	13.	2013-14	220
4.	2004-05	113	14.	2014-15	240
5.	2005-06	117	15.	2015-16	254
6.	2006-07	122	16.	2016-17	264
7.	2007-08	129	17.	2017-18	272
8.	2008-09	137	18.	2018-19	280
9.	2009-10	148	**19.**	**2019-20**	**289**
10.	2010-11	167			

When the benefit of Indexation is not available in case of long-term capital asset:

In the following cases, the benefit of indexation is not available even if a long-term capital asset is transferred –

1) **Bonds or Debentures** (other than (a) capital indexed bonds issued by the Govt. or (b) Sovereign Gold Bonds issued by RBI under the Sovereign Gold Bond Scheme, 2015) transferred by any person.
2) **Shares in or Debentures of an Indian company** acquired by utilizing **convertible foreign exchange** transferred by a Non-resident.
3) **Depreciable asset** (other than an asset used by a power generating unit eligible for depreciation on straight line basis) transferred by any person.
4) Undertaking / Division transferred by way of slump sale (transfer of one more undertakings for a lump sum consideration) as covered by section 50B by any person.
5) Units purchased in foreign currency as given in section 115AB from offshore fund.
6) Global Depository Receipts (GDR) purchased in foreign currency as given in section 115AC transferred by a Non-resident.
7) Global Depository Receipts (GDR) purchased in foreign currency as given in section 115ACA transferred by a Resident individual.
8) Securities as given in section 115AD transferred by Foreign Institutional Investors (FII).
9) Transactions covered under section 112A (i.e., transactions liable for payment of STT) from assessment year 2019-20.

Capital Gains Exempted from Tax:

In the following cases capital gains are exempted from tax –

1. Capital gain on transfer of unit's u/s 64. {Section 10(33)}.
2. Capital gain to a shareholder in respect of buy-back of unlisted shares by a company. {Section 10(34A)}.
3. Capital gain on compulsory acquisition of urban agricultural land under any law on or after 1st April 2004, of an individual or Hindu undivided family. {Section 10(37)}.
4. Capital gain arising under land pooling scheme of Andhra Pradesh Government who owns land or building or both as on 2nd June 2014. {Section 10(37A)}
5. Long-term capital gain on a transaction liable for Securities Transaction Tax (STT) at the time of transfer or at the time of acquisition on or after 1st October 2004. {Section 10(38)}. **Note: From assessment year 2019-20, exemption under section 10(38) is withdrawn. Hence any long-term capital gain on a transaction liable to STT is taxable, subject to provisions of Section 112A.**

Steps for indentifying chargeability under the head Capital Gains:

1. Ascertain the transaction carried out by the assessee is within the meaning of Transfer under Section 2(47) and outside the purview of Section 47.
2. If yes, ascertain whether the asset transferred is of a Capital Asset defined under Section 2(14), but does not fall under exceptions.
3. If yes, the outcome of the transaction is capital gain/loss.
4. Verify whether the capital gain is exempt u/s Section 10.
5. If no, then there is an income chargeable under the head capital gains.

Problem – 1.

Mr. Arun purchased a building for Rs. 2,00,000 during 2006-07 CII - 122. During 2011-12 he has constructed I floor at a cost of Rs. 3,00,000 CII - 184. During 2017-18 II floor was constructed at a cost of Rs. 2,50,000 CII - 272. On 01-08-2019 he sold the building for Rs. 80,00,000 and paid brokerage of 2% CII - 289. Compute Capital Gain for the AY-2020-21.

Points to be noted while computing capital gain income:

1. Expenditure incurred on purchase of assets must be added to the cost of assets. (Commission/Brokerage paid on purchases, stamp fees, registration charges etc).
2. If depreciation is charged on assets the assets are always treated as short term capital assets. (i.e., when written down value of assets are given cost becomes immaterial). Written down value must be deducted from sale price to know the capital gain. Profit on transfer of such assets will become always short term capital gain even though the assets are held by an assessee for a period more than 24 months or 36 months as the case may be.
3. While calculating capital gain if the cost of present owner is not known the cost of previous owner must be taken. Section 49(1)
4. Advance money forfeited due to cancellation of earlier contract of sale if any during the previous year 2013-14 or any earlier previous year must be deducted from the original cost of acquisition or fair market value as the case may be if the asset is transferred during the life time. If the advance money is forfeited during the previous year 2014-15 or any subsequent previous year, it will not be deducted from cost of acquisition when the capital asset is ultimately transferred instead it is treated as taxable under the head Income from other sources.
5. In case of self generated asset (Goodwill, Tenancy Rights etc) the cost of acquisition is always nil. The entire sale proceeds become capital gain.
6. If the assets sold were acquired prior to 01-04-2001, the assessee has option to choose either original cost of such asset or Fair Market Value as on 01-04-2001. Generally an assessee chooses whichever is higher. If FMV is selected the additions and improvements made prior to 01-04-2001 must be ignored.

7. Bonus shares: The cost of acquisition of bonus shares is always Nil, if allotted on after 1-4-2001. If allotted prior to 1-4-2001, Fair Market Value as on 1-4-2001 should be taken as cost.
8. If capital asset becomes the property of the assessee by gift or will or inheritance etc, the cost of previous owner must be taken as cost of acquisition.
9. For Bonds and Debentures Indexation is not available even if they are Long term capital asset.
10. In case of Listed debentures and bonds the period of more than 12 months will be taken as Long term capital asset and in case of unlisted debentures and bonds the period of more than 36 months will be taken as Long term capital asset.

Problem – 2.

Mr. Balaram sold his vacant site on 21-09-2019 for Rs.7,00,000 (CII- 289). It was acquired by him on 1st October 2008 for Rs.1,50,000 (CII- 137). Compute capital gain of Mr. Balaram, if the stamp duty value on the date of agreement for sale was (i) Rs.7,50,000 and (ii) Rs.7,20,000.

Problem – 3.

Mr. Salapathra sold 1,000 unlisted Debentures of M/s Barrow Company for a price of Rs.130 per debenture on 28th December 2019. The Brokerage paid was at the rate of 1%. These debentures were purchased at its face value of Rs.100 per debenture on 27th December 2017 on its issue by the company. Compute taxable capital gain for the Assessment Year 2020-21.

Problem – 4.

Mrs. Aabharana purchased jewellery on 28th August 2017 for Rs.10,00,000. On 26th September 2019, she sold the jewellery for a consideration of Rs.12,00,000. Calculate taxable capital gain for the Assessment Year 2020-21.

Problem – 5.

Mr. Gowda owns 20 acres of land which was purchased at a cost of Rs.1,20,000 in the year 1999-2000. He spent Rs.30,000 for leveling the land in the year 2000-01. In 2014-15 CII - 240, he spends Rs.50,000 for fencing the land.

On 01-08-2013 he entered into agreement with Putti for sale of land at Rs.50,000 per acre and received an advance of Rs.1,00,000. However, the sale agreement was cancelled and advance money forfeited.

On 01-10-2019, he sold the entire land for Rs.50,00,000 and paid brokerage of 3%. The Fair Market Value of the land on 01-04-2001 was Rs.3,50,000. CII for 2001-02 – 100 and for 2019-20 - 289. Compute Capital gain for the Assessment Year 2020-21.

Problem – 6.

Find out Capital gain for the Assessment year 2020-21 in the following cases:-

a) Written down value of Machinery on 01-04-2019 Rs.18,000 which was purchased on 15-09-2018 for Rs.20,000 and sold on 01-09-2019 for Rs.26,000.
b) Debentures purchased on 01-11-2015 CII - 254 for Rs.2,00,000 were sold on 01-01-2020 for Rs.4,00,000.
c) Cost of acquisition of Residential house in 1996-97 Rs.1,00,000. Fair Market Value on 01-04-2001 Rs.2,20,000. Cost of improvement during 2009-10 Rs.1,50,000. Sold on 01-11-2019 for Rs.32,00,000. The CII for 2001-02 – 100, 2009-10 - 148 and for 2019-20 - 289.

Problem – 7.

Mr. Zamindar acquired a plot of land in 1995 at a cost of Rs.30,000. The FMV of the land on 1st April 2001 was Rs.11,00,000. On his death, the land was inherited by his daughter Mrs. Bhoomi in September 2007. She sold the plot of land in February 2020 for a consideration of Rs.50,00,000. Calculate taxable capital gain for the Assessment Year 2020-21. The CII for 2001-02 is 100, and for 2019-20 is 289.

Problem –8.

Mr. Narada purchased 1,000 listed debentures of Indra Ltd. on 11 Septmeber 2007 for Rs.100 per debenture. He sold these debentures at the rate of Rs.126 per debenture on 27th December 2019. The brokerage on sale was 1%. Compute taxable capital gain for the Assessment Year 2020-21.

Problem – 9.

State whether the following assets are short term capital assets or long term capital assets:

a) A plot of land acquired from HUF at the time of partition on 13th March 2019. HUF acquired this asset on 10th April 2006. Sold on 5th May 2019.
b) A residential house acquired on 23rd August 2005 sold on 14th February 2020.
c) Shares (non-listed) in an Indian company acquired on 1st January 2018 sold on 10th July 2019 outside the recognized stock exchange.
d) Non-listed Debentures in an Indian company acquired on 15th December 2017 sold on 15th July 2019.
e) Building used for commercial purposes acquired on 31st July 2010 sold on 17th July 2019.
f) Jewellery acquired on 30th June 2000 sold on 20th June 2019.
g) Shares in foreign company acquired on 1st January 2001 sold on 31st July 2019.
h) Listed debentures of a foreign company acquired on 1st April 2019 sold on 15th June 2019.

Exemption under section 54:

Under this section long term capital gain on transfer of residential house (not a commercial building) is exempted to the extent of the amount used by individuals and HUF-

a) To purchase another residential house (one house only) within one year before the date of transfer or two years after the date of transfer.
b) To construct a new residential house within three years from the date of transfer.
c) To make deposit in capital gain account scheme of a specified bank before filing income tax returns.

The newly purchased residential house if sold within two years the earlier exempted capital gain is put into tax as short term capital gain and if sold after 2 years but before 3 years it is taxable as long term capital gain. For calculating capital gain on transfer of new asset, cost of acquisition will be calculated as original cost of acquisition of new asset after deducting the earlier exempted capital gain amount.

At the same time the amount deposited in capital gain account is not withdrawn for the purchase or construction of another residential house with in 3 years from the date of transfer, the earlier exempted capital gain is put into tax immediately after expiry of three years.

Problem – 10.

Mr. Vasudeva purchased a house in Udipi in 1997 for Rs.1,00,000. He has incurred expenses of Rs. 20,000 in 1998 for the improvement and renovation of the house. After one year he added two rooms at a cost of Rs. 25,000. The FMV of the house on 01-04-2001 was Rs. 1,80,000. CII - 100. He sold the house in May 2019 for Rs. 21,50,000. CII – 289.

He purchased another house property within 2 months for Rs. 3,00,000 and deposited Rs. 50,000 in Capital gain account. Compute the Capital gain for the Assessment year 2020-21.

Problem – 11.

Mr. Nikil purchased a residential house in the year 1998-99 for Rs.1,50,000. He constructed I floor at a cost of Rs.50,000 in 1999-2k. On 1-8-2007 he dies leaving behind a will, as per which the ownership of house was transferred to his son Mr. Chintu.

Mr. Chintu negotiated a sale with Mr. Tinku during 2010-11 for Rs.8,00,000 and received an advance of Rs.75,000. Mr. Tinku found difficult to pay the balance with in stipulated period as a result the agreement was cancelled and advance money forfeited. In the year 2015-16 he constructed another floor by spending Rs.2,00,000.

On 01-09-2019 he sold the entire building for Rs.25,00,000 and immediately purchased another building on 01-12-2019 for Rs.6,00,000 and deposited Rs.2,00,000 in capital gain account.

On 01-03-2020 he sold the house property for Rs.8,00,000. Compute capital gain for the AY 2020-21 assuming that FMV of the house as on 01-04-2001 was Rs.2,50,000. The CII for 2001-02 – 100 for 2015-16 - 254 for 2019-20 -289.

Exemption Under Section – 54 B

Under this section long term capital gain or short term capital gain on transfer of agricultural land (not situated in rural area) used for agriculture for 2 years before transfer is exempted to the extent of amount used by individuals and HUF –

a) For buying agricultural land within two years from the date of transfer.
b) For making deposit in capital gain account scheme before filing income tax returns.

The newly purchased agricultural land if sold within two years the earlier exempted capital gain is put into tax as short term capital gain and if sold after 2 years but before 3 years it is taxable as long term capital gain. For calculating capital gain on transfer of new asset, cost of acquisition will be calculated as original cost of acquisition of new asset after deducting the earlier exempted capital gain amount.

Similarly the amount deposited in capital gain account is not withdrawn within 3 years from the date of transfer for the purpose of buying agricultural land the entire amount in the capital gain account is put into tax immediately after the expiry of three years.

Problem – 12.

Mr. Nanjundaswamy sells agricultural land situated in within the municipal limits of Mandya for Rs.38,87,925 on 04-07-2019 CII - 289, which was purchased by him on 01-03-2008 for Rs.4,00,000 CII -129. On 01-06-2020 he purchases agricultural land in rural area for Rs.4,30,000 and deposited Rs.10,80,000 in capital gain account.

He purchased another agricultural land situated within municipality limit of Delhi for Rs.8,47,000 by withdrawing capital gain account on 30-06-2021.

The agricultural land in rural area is transferred on 10-04-2022 for Rs.4,90,000 and the land in Delhi is transferred on 17-07-2022 for Rs.8,70,000. Determine the amount of Capital gain for the Assessment year 2020-21 and for the Assessment year 2023-24.

Exemption Under Section - 54 D

Under this section long term capital gain or short term capital gain on compulsory acquisition of land and building of industrial undertaking used for two years before the date of compulsory acquisition is exempted to the extent of amount used by any assessee –

a) For buying another land and building within 3 years from the date of receipt of compensation
b) For making deposit in capital gain account scheme before filing income tax returns.

The newly purchased land and building if sold within two years the earlier exempted capital gain is put into tax as short term capital gain and if sold after 2 years but before 3 years it is taxable as long term capital gain.

Similarly if the amount deposited in capital gain account is not withdrawn for the purpose of buying land and building within three years from the date of transfer, the entire amount in the capital gain account is put into tax immediately after expiry of three years.

Exemption Under Section – 54 EC

Under this section long term capital gain on transfer of one or more Land, Building or Both is exempted to the extent of the amount (Maximum amount in one financial year Rs.50,00,000) invested in the long term specified assets i.e., bonds redeemable after five years by the **National High way Authority of India (NHAI) or by the Rural Electrification Corporation Ltd. (REC)** or **notified bonds** by the Central Government **within six months** from the date of transfer by any assessee.

If the newly purchased securities are sold within **5** years from the date of purchase or if the new asset is converted into money or any loan/ advance is taken on the security of the new asset within **5** years from the date of acquisition of the new asset the earlier exempted capital gain is put into tax.

Problem – 13.

Miss. Anu transfers land and building on 2nd January 2020 and furnishes the following information – Net Consideration received Rs.14,00,000; Value adopted by Stamp Valuation Authority Rs.26,00,000; Value ascertained by Valuation Officer on reference by the Assessing Officer Rs.27,00,000; This land was acquired by Miss. Anu on 1st Aprill 2001. Fair market value of the land as on 1-4-2001 was Rs. 4,37,500 (CII – 100). A residential building was constructed on land by Miss. Anu at cost of Rs.3,35,000. Construction completed on 1st December 2010 during financial year 2010-11 (CII – 167) and CII for 2019-20 is 289.

Miss. Anu seeks your advice to the amount to be invested in NHAI bonds so as to be exempt from capital gains tax under the Income Tax Act.

Problem – 14.

Miss. Manu owned a residential house at Nagpur. It was acquired by Miss. Manu on 10-10-2011 for Rs.13,67,500. It was sold for Rs.55,00,000 on 04-11-2019. The State Stamp Valuation Authority fixed the value of the property at Rs.60,00,000. The assessee paid 2% of the sale consideration as brokerage for the sale of said property.

Miss. Manu acquires a residential house at Chennai on 10-12-2019 for Rs.15,00,000 and deposited Rs.10,00,000 on 10-04-2020 in the capital gain bond of Rural Electrification Corporation ltd. He deposited Rs.5,00,000 on 06-07-2020 in the Capital Gain Deposit Scheme in a nationalized bank for construction of additional floor on the residential house property acquired at Chennai.

Compute the Capital gain chargeable to tax for the Assessment Year 2020-21. The CII for 2011-12 -184; and for 2019-20 -289.

Exemption Under Section - 54 F

Under this section long term capital gain on transfer of any asset other than residential house is exempted proportionately to the extent of 'Net Sale Consideration' amount used by an individual and HUF –

a) For buying one residential house within two years after the date of transfer or within one year before the date of transfer.
b) For constructing a residential house within three years from the date of transfer.
c) For making deposit in capital gain account scheme before filing income tax returns.

The newly purchased or constructed house if sold within three years the earlier exempted capital gain is put into tax. At the same time the amount deposited in capital gain account is not withdrawn within three years from the date of transfer, for the purpose of buying or construction of residential house the entire amount in the capital gain a/c is put into tax.

The proportionate amount of exemption is calculated as fallows-

$$\textbf{Exempted Amount} = \frac{\textbf{Long term capital gain x Amount invested}}{\textbf{Net sale price / Net sale proceeds}}$$

NOTE: Under this section exemption is available only if on the date of transfer of the original asset the tax payer does not own more than one residential house (other than new house). He should also not purchase within a period of two years after such date (or complete construction within a period of 3 years after such date) any residential house other than the new house.

Calculation of Exemption u/s 54F when there is transfer of more than one long-term capital asset:

Where the assessee has transferred more than one long-term capital asset (other than residential house property) and has invested in a residential house property, then for claiming exemption u/s 54F, the following steps must be observed –

1. Calculate Gross Capital Gain for each capital asset.
2. Calculate the percentage of Gross Capital Gain on Net Sale Consideration.
3. Rank the capital assets in the descending order of the percentage.
4. Claim exemption u/s 54F in the order of the rank.

Problem – 15.

Mr. Sundar purchased a house property for Rs.40,000 on 16-06-1992. He died on 12-09-2000 and the property was transferred to Mrs. Sundari. She spent Rs.45,000 during 2006-07 for reconstruction of the property. She sold the property for Rs.20,00,000 on 23-03-2020 and paid brokerage of Rs.16,000. On 25th March she purchased another house for Rs.2,00,000 and purchased bonds of NHAI on 28th March for Rs.1,00,000.

Compute Capital gain for the A. Year 2020-21. The CII for 2006-07 - 122 for 2019-20 - 289 and the FMV of house property on 01-04-2001 was Rs.2,50,000 and CII – 100.

Problem – 16.

From the following information of Miss. Shilpa, Compute Capital gain for the Assessment Year 2020-21.

Purchased agricultural land in 2008-09 at Agra for Rs.1,54,000. CII – 137. Sold the land on 10th Aug 2019 for Rs.10,00,000. CII - 289, Invested in purchase of a house Rs.3,00,000, Purchased another agricultural land for Rs.1,00,000 and purchased bonds of National Rural Electrification Corporation Rs.50,000.

Problem – 17.

Mr. Ramakrishna owned one residential house sold for Rs.3,40,000 in October 2019, CII - 289 which was purchased by him for Rs.1,00,000 in 2004-05 CII - 113. He spent Rs.1,00,000 for construction of another room in 2006-07 CII - 122. Expenses incurred in the execution of sale deed were Rs.10,000. He purchased another house for Rs.50,000 in December 2019. Compute Capital gain for the Assessment Year 2020-21.

Some important points to be noted

1. **Treatment of Capital Loss:** Short term capital loss can be set off from either short term capital gain or long term capital gain. But the long term capital loss can be set off only from long term capital gain.

   Unadjusted capital losses are carried forward separately for 8 succeeding previous years to be set off in the following manner-

   a) Short term capital loss can be set off from either short term capital gain or long term capital gain.

   b) Long term capital loss can be set off only from long term capital gain.

2. Exemptions under sections 54, 54 B, -------- and other sections will be allowed only to the extent of amount available as capital gain.

Tax computation on Capital Gains under section 112A:

Section 112A is applicable from assessment year 2019-20. This section specifies the provisions for computation of tax on 'long-term capital gains' liable for Securities Transaction Tax (STT).

Section 112A is applicable when the following conditions are fulfilled:

1. Assessee has sold **Equity Shares** or units of Equity-oriented Mutual Fund or Units of a Business Trust through a **Recognized Stock Exchange** or has sold Units of Equity oriented Mutual Fund to Mutual Fund Company.
2. Assessee has paid **Securities Transaction Tax (STT)** on such sale.
3. In case of **Equity Shares**, **STT** has also been paid at the time of **purchase** (if the shares were purchased on or after 1st October 2004).
4. Where the Shares or Units transferred, were purchased before 1st February 2018, the cost of acquisition is considered as **higher of**
   (a) The actual cost of acquisition or
   (b) Lower of 'Fair Market Value on 31st January 2018' or 'Actual Sale Consideration'
5. The benefit of Indexation is not claimed.

When all the above conditions are fulfilled, the long term capital gain is taxable @10% on the gain **in excess of Rs.1,00,000.** If capital gain is Rs.1,00,000 or less no capital gain tax.

Problem – 18.

Mr. H. Gowda had purchased 2000 Equity shares of HUL ltd. on 26th December 2017 @ Rs.520 per share. The transaction was liable for payment of STT. The fair market value of the shares on 31st January 2018 was Rs.530 per share. He sold the shares through Bombay Stock Exchange on 10th January 2020 @ Rs.550 per share. Calculate the taxable capital gain.

Problem – 19. (Bonus Shares)

Mr. Dhadha purchases 1,000 equity shares in A Ltd. @ Rs.20 per share (brokerage – 1%), on 10th December 1999. He gets 500 bonus shares on 10th January 2016. Fair market value of shares of A Ltd. on 1st April 2001 is Rs.25 per share. On 13th April 2019, he transfers 1,000 original shares @ Rs.175 per share (brokerage 2%). On 15th April 2019 he transfers 500 bonus shares @ Rs.180 per share (brokerage 2%).Compute capital gain assuming that shares are sold outside the stock exchange. The CII for 2001-02 is 100 and for 2019-20 is 289.

Problem – 20. (Bonus Shares)
Ms. Neelu had purchased 500 equity shares in A Ltd. at a cost of Rs.30 per share (brokerage 1%) in February 2000. She got 100 bonus shares in September 2000. She again got 500 bonus shares by virtue of her holding on March 2009. FMV of the shares of A Ltd. on April 2001 is Rs.50 (CII-100) and on 31st January 2018 @ Rs.200. In January 2020 (CII-289), she transferred all her shares @ Rs.240 per share (brokerage 2%).

Compute the capital gain of Ms. Neelu for the Assessment Year 2020-21, assuming –

(i) A Ltd. is an unlisted company and securities transaction tax was not applicable at the time of sale.

(ii) A Ltd. is a listed company and the shares are sold in a recognized stock exchange and securities transaction tax was paid at the time of sale.

Problem – 21.
Mrs. Kantabharana had purchased gold jewellery worth Rs.22,00,000 on 28th September 2013 CII – 220. She sold the jewellery on 9th Febrauary 2020 for a consideration of Rs. 54,18,000 CII – 289, for which she incurred some legal expenses of Rs.18,000. Out of the proceeds, she purchased a residential house on 18th June 2020 for Rs.36,00,000 and deposited Rs.9,00,000 for further improvements of the property, on 25th July 2020. On the date of selling the jewellery, Mrs. Kantabharana owns one residential property.

By 10th February 2023, the balance in the deposit account is Rs.2,20,000. She sold the residential house for Rs.54,00,000 on 2nd June 2023, which was also the value for stamp duty purposes. Compute taxable capital gain for all applicable assessment years.

Problem – 22. (Exemption u/s 54F from more than one long-term capital asset).
The following are the details of assets transferred by Mr. Chandru for the previous year 2018-19.

Particulars	Gold Rs.	Silver Rs.	Diamonds Rs.	Land Rs.
Net Sale consideration	12,00,000	20,00,000	18,00,000	45,00,000
Indexed cost of acquisition	9,60,000	12,00,000	12,60,000	9,00,000

Out of the sale proceeds Mr. Chandru has invested Rs.80,00,000 in a residential property in March 2020. Compute exemption under section 54F and taxable capital gain for the assessment year 2020-21.

Problem – 23.

Mr. Pandu gives the following particulars of his income. Compute his income from capital gain for the Assessment Year 2020-21.

a) Residential house was sold for Rs.22,00,000, purchased in 2007-08 for Rs.13,00,000. CII - 129 and paid Rs.50,000 for registration. Within 2 months of sale he purchased another house for Rs.6,00,000.

b) Agricultural land sold 4 acres of land for Rs.18,00,000 which was purchased in 2005-06 for Rs.2,00,000. CII - 117. He also purchased new agricultural land in 2019-20 for Rs. 3,00,000. CII - 289.

c) He sold Jewellery costing Rs.30,000 for Rs.2,50,000 on 01-09-2019 which was purchased in 2008-09. CII - 137. He purchased additional Jewellery for Rs.96,000.

d) He sold tenancy rights (self generated in 2006) for Rs.4,20,000.

Chart on Exemptions from capital gain income:

Sl. No	Section	Asset to be sold	Type of gain	Where to be invested
1.	54	Res. House / HP	LTCG	To purchase or construct another Res. House
2.	54 B	Agricultural land	LTCG/STCG	To purchase new agricultural land
3.	54 D	Compulsory acquisition of Land & Building of industrial undertaking	LTCG/STCG	To purchase another land & building of industrial undertaking
4.	54 EC	Land, Building or both	LTCG	To buy NHAI and REC/Notified bonds within 6 months not exceeding Rs.50,00,000.
5.	54 F	Any Capital Asset other than Residential House	LTCG	To buy or construct new residential house.

NOTE:

Except U/S 54 EC the amount used even for deposit in capital gain a/c scheme of a specified bank before filing income tax returns is also exempted.

In all the above sections if newly purchased assets are sold within three years (5 years in case of section 54EC) from the date of transfer the earlier exempted capital gain is put into tax. Similarly the amount deposited in capital gain account scheme is not withdrawn within two or three years from the date of transfer, and used to buy the same assets the entire amount in capital gain account is put into tax immediately after expiry of two or three years as the case may be.